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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,218	06/05/2001	Kenji Matsumoto	Q64809	4028

7590 09/11/2002
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EXAMINER

NGUYEN, TUAN M

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/873,218

Applicant(s)

MATSUMOTO, KENJI

Examiner

Tuan M Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings (figs. 1a-22) are objected for minor informalities. The figures 1a-22 are not labeled as required by 37 CFR 1.83(a). Applicant is required to submit a drawing correction for approval as require by rule 37 CFR 1.123.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5, recite a semiconductor laser having a structure in which an equivalent refractive index of two portion disposed apart from each other is higher than that of adjacent portions to these portions in a direction perpendicular to a waveguide direction as well as on parallel with an activation layer. The claims fail to provide any layers or any structure or structural relationship in order to conform the laser structure. The claims also recite a first groove is formed penetrating through at least some of said plurality of said layers. It is unclear as which layers are defined as "at least some of said plurality of said layers". The claims also recite the specified layer with a special material without specified the material being used, which render claims confusing, vague and indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al (US patent 5,585,309).

With respect to claim 1, Mori discloses method of making semiconductor laser comprising an active layer (43), the lower cladding layer (42), the first upper cladding layer (44), the etching stopper layer (45), a first stripe shape groove (55) and the second grooves (56), note cols. 19-20, see figs. 7a-8c.

With respect to claims 2 and 3, Mori discloses the first groove (55) and the second grooves (56) are filled up with the p-type InP layer (47), note cols. 19-20, see fig 7a-8c. Mori also discloses the p-type InP layer (205), the n-type InP current blocking layer (206) and the p-type InP current blocking layer (207) are present on opposite sides of the ridge structure, the InGaSaP active layer (203) is buried with InP having a refractive index smaller than that of InGaAsP, note col. 2, see fig 47d.

With respect to claims 4 and 5, Mori discloses the p-type Inp layers and n-type InP layers are alternating laminated, note col. 25 line 31 to col. 31 line 37.

Citation Of The Pertinent References

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclose.

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The patent to Ishikawa et al (US patent 5,696,389) discloses light-emitting semiconductor device.

The patent to Horie et al (US patent 6,323,052) discloses compound semiconductor light emitting device and method of fabricating the same.

The patent to Mori et al (US patent 4,737,961) discloses semiconductor laser with complementary mesa structures.

Communication Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan M Nguyen whose telephone number is (703) 306-0247.

The examiner can normally be reached on 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-5511 for regular communications and (703) 306-5511 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.



Paul Ip
SPE
Art unit 2828

TMN
September 5, 2002